

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7106

BILL NUMBER: SB 496

NOTE PREPARED: Jan 31, 2013

BILL AMENDED: Jan 31, 2013

SUBJECT: Control of Ephedrine and Pseudoephedrine.

FIRST AUTHOR: Sen. Yoder

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Selling of Ephedrine*- This bill specifies that ephedrine or pseudoephedrine: (1) may be sold only by a pharmacy or a retailer that uses the NPLeX tracking system. The bill provides that: (1) a pharmacy may not sell more than 61.2 grams of ephedrine or pseudoephedrine to an individual in a 365 day period; and (2) an individual may not purchase more than 61.2 grams of ephedrine or pseudoephedrine in a 365-day period.

Penalty Provision- The bill prohibits a person convicted of a methamphetamine offense from possessing ephedrine, pseudoephedrine, or phenylpropanolamine within seven years of the person's conviction, unless dispensed under a prescription. The bill increases the penalty for furnishing methamphetamine precursors to another person with knowledge that the recipient will use the precursors to manufacture controlled substance if the person furnishes more than 10 grams of certain precursors.

Signage Provision- The bill removes a provision requiring certain signage where ephedrine or pseudoephedrine is sold.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Penalty Provision*- Under current law, a person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or intent that the recipient will use the reagent or precursor to manufacture a controlled substance commits a Class D felony. This provision would increase the D felony to a C felony if the person sells, transfers, distributes, or furnishes more than 10 grams of ephedrine, pseudoephedrine, or phenylpropanolamine. Additionally, the bill would

establish a new D felony for having possession of methamphetamine within seven years of a prior conviction for a methamphetamine offense.

State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class D felony is punishable by a prison term ranging between 6 months and 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years. More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the incremental cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately 2 years, and for Class D felony offenders, approximately 10 months.

(Revised) *Selling of Ephedrine*- The bill would allow only pharmacies and NPLeX retailers to sell over-the-counter products containing ephedrine or pseudoephedrine. (Current law allows all retailers to do so, including groceries, merchandise stores, drug stores, and other similar establishments.) Additional violations of this provision constitute a Class C misdemeanor (Class A misdemeanor with a prior conviction). However, it is likely the number of offenders would be low.

Explanation of State Revenues: *Penalty Provision*- Criminal fines and court fees are the same for either Class D or C felonies. The maximum fine is \$10,000. Criminal fines are deposited into the Common School Fund. The bill also increases D felony “neglect of a dependent” to a C felony, if the neglect is committed in a location where there is the delivery, financing, or manufacture of methamphetamine. The bill also adds a new D felony. Therefore, aggregate court fees and fines would likely increase. Court fees are placed in the state General Fund.

Explanation of Local Expenditures: *Penalty Provision*: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase.

Explanation of Local Revenues: *Penalty Provision*- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. The bill also increases D felony “neglect of a dependent” to a C felony, if the neglect is committed in a location where there is the delivery, financing, or manufacture of methamphetamine. Therefore, aggregate court fees and fines that apply to local revenues may increase.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs’ Association; Department of Correction.

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